

# UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

United States of America

v.

Barkley Gardner

)

)

)

Case No: 4:95-CR-41-8H

)

USM No: 16107-056

Date of Original Judgment: March 11, 1997

)

Date of Previous Amended Judgment: \_\_\_\_\_

)

Cindy Bemby

(Use Date of Last Amended Judgment if Any)

Defendant's Attorney

## ORDER REGARDING MOTION FOR SENTENCE REDUCTION PURSUANT TO 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

**IT IS ORDERED** that the motion is:

☒ **DENIED.** ☐ **GRANTED** and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of \_\_\_\_\_ months **is reduced to** \_\_\_\_\_

Although one of the counts of conviction involved drugs or a chemical, the guideline range was not determined using USSG §2D1.1. Therefore, the drug table was not utilized and a reduction is not appropriate. Furthermore, the defendant was sentenced at the statutory minimum and that minimum did not change as a result of the retroactive amendment and was not mitigated by a substantial assistance motion.

If the amount of time the defendant has already served exceeds this sentence, the sentence is reduced to a "Time Served" sentence, subject to an additional period of up to ten (10) days for administrative purposes of releasing the defendant.

(Complete Parts I and II of Page 2 when motion is granted)

Except as otherwise provided, all provisions of the judgment(s) dated March 11, 1997, shall remain in effect. **IT IS SO ORDERED.**

Order Date: \_\_\_\_\_

2/17/16

  
Judge's signature

Effective Date: \_\_\_\_\_

(if different from order date)

Malcolm J. Howard Senior U.S. District Judge

Printed name and title